

## **REMARKS**

Claims 1-37 are now pending in the application with Claims 38-43 being cancelled herein. Claim 33 has been allowed, and Claims 1-32 and 34-37 stand rejected. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **Claim Amendment**

The Examiner's attention is directed Claim 1 which has been amended to correct an inadvertent antecedent basis error. Applicant notes that the amendment is non-narrowing, and as such will not require an additional search.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-21 and 38-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook et al. (U.S. Pat. No. 5,989,293) in view of Sullivan et al. (U.S. Publication No. 2003/0125810). Claims 1-17, 19-32 and 34-37 stand rejected as being unpatentable over Gray, III (U.S. Pat. No. 5,800,555) in view of Sullivan et al. (U.S. Publication No. 2003/0125810). These rejections are respectfully traversed.

The Examiner's attention is directed to independent Claims 1, 22, 27 and 34 which contain the limitation, that the "integral generally spherical bearing surface" is a polished bearing surface. These independent claims further contain the limitation that the "integral generally spherical bearing surface is configured to interface with an articulating surface of a femoral component." This is opposed to the support surfaces in

each of the cited references, which simply support a bearing insert and do not function as an articulating bearing surface.

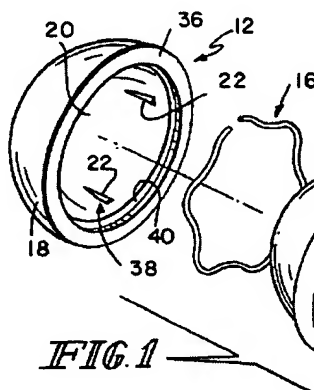
In characterizing Cook, et al. (U.S. Pat. No. 5,989,293), the Examiner states that the Cook reference teaches a first integral generally spherical concave bearing surface which is a polished metal (see column 3, line 10). Applicants respectfully traverse this characterization. Applicants note that while Cook et al. may teach a machined inside diameter, Cook does not teach a polished concave bearing surface configured to engage an articulating surface of a femoral component as is claimed. Nothing within Cook teaches or suggests that the shape or surface meet the tolerance requirements to function as an articulating bearing.

Further, it is noted that the Cook reference utilizes a bearing liner component. This bearing liner component has a concave smooth bearing surface that interfaces with the articulating surface of the head component. There is simply no teaching whatsoever that the inner surface of the cup 14 of Cook et al. has the shape or structural properties needed to function as an articulating bearing surface.

With respect to the cited Sullivan reference, Applicants note that the cited passage on hardness and smoothness is directed to a convex humeral portion and not the claimed concave surface. Further, the figures of the Sullivan reference appear to disclose at least a two piece glenoid having a convex bearing surface. In this regard, the Examiner's attention is directed to Figures 1 and 2 of the Sullivan reference. Both of these figures show a concave bearing surface formed of more than one material (see element 8). There is no teaching in the Sullivan reference that provides a concave

prosthetic which can act both as a support of a second prosthetic and an articulating bearing surface.

With respect to the rejections of Claims 1-17, 19-32 and 34-37 over Gray, III (U.S. Pat. No. 5,800,555) in view of Sullivan et al. (U.S. Publication No. 2003/0125810), the Examiner's attention is directed to column 3, lines 27-30 of the Gray reference. "The inner surface 20 of acetabular cup 12 is provided with a plurality of anti-rotation lugs 22 which engage the outer surface 42 of the bearing liner 14 upon insertion of the bearing liner 14 into the acetabular cup 12." (emphasis added)



Applicants assert that the structure of the inner surface 20 of the cup 22 is not capable of performing as an articulating bearing surface as claimed. Further, Applicants assert there is simply no motivation in the Sullivan reference to transform the non-articulating bearing surface of either Cook or Gray into an articulating bearing surface.

Applicants submit that the Examiner has failed to meet the burden required in making a *prima facie* rejection under 35 U.S.C. § 103(a) inasmuch as all of the limitations are not shown or suggested in either of the Cook, Gray or Sullivan

references. Not only do the references not teach all of the claimed limitations, but one skilled in the art would not be motivated to combine the teachings of the Cook or Gray with the Sullivan reference to arrive at the claimed invention. In this regard, Applicants submit that there is no teaching within the references which would motivate one skilled in the art to combine the references.

#### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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